



## Venezuela

### Country Reports on Human Rights Practices - [2003](#)

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Venezuela is a constitutional democracy with a president and unicameral legislature in which citizens periodically choose their representatives in free and fair multiparty elections. In addition to the executive, legislative, and judicial branches of government, the Constitution provides for a "Citizen Power" branch of government--which includes the Ombudsman, the Public Prosecutor, and the Controller General--and an "Electoral Power" branch, the National Electoral Council (CNE). In July 2000, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. The MVR and the pro-Chavez Movimiento al Socialismo (MAS) party won 92 seats in the 165-member legislature; subsequent party splits reduced the pro-Chavez members to 83 seats. In December 2000, in a manner that some observers criticized as unconstitutional, the National Assembly named members of the Citizen Power and Supreme Court. In August, the Supreme Court appointed a transitional CNE after the National Assembly failed to do so. The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges at all levels were subject to influence from a number of sources, including the executive branch.

From December 2002 to February 1, opposition groups led a national work stoppage to demand the resignation of the President. The strike failed. On May 29, after months of negotiations under the Organization of American States' (OAS) auspices, government and opposition representatives signed an agreement that committed both sides to follow the Constitution and laws and acknowledged the constitutional right to hold recall referenda if legal criteria were met. On August 20, opposition groups submitted 3.2 million signatures gathered in February petitioning for a referendum on the presidency. On September 12, the CNE declared the petition invalid. The opposition then conducted another signature drive at the end of November. The Government and opposition also collected signatures to petition for referenda to recall the President and more than 70 legislators. The verification process for all collected signatures was underway at year's end.

The security apparatus includes civilian and military elements, both accountable to elected authorities. Active and retired military officers held high-ranking government positions, and 5 of the 14 presidential cabinet members previously served in the military. The presidents of two major state-owned corporations--Corporacion Venezolana de Guayana and Corporacion Zulia--are active duty military officers, and one was placed in charge of the maritime operations of the state-owned oil company in response to the national work stoppage. The military was involved heavily with public service projects. The Defense Ministry controls the General Directorate for Military Intelligence (DIM), which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order. The Interior and Justice Ministry controls the Investigative and Criminal Police Corps (CICPC), which conducts most criminal investigations, and the Directorate for Intelligence and Prevention Services (DISIP), which collects intelligence. Municipal mayors and state governors are responsible for local and state police forces and maintain independence from the central Government. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and is headed by a career police officer, rather than a military officer. While civilian authorities generally maintained control over security forces, individual members of the security forces committed numerous and serious human rights abuses during the year.

The population was approximately 25 million. The country has abundant natural resources and a mixed agricultural/industrial, market-based economy; however, the vast majority of natural resource extraction and production was done by entities owned and operated wholly or in part by the Government. The economy was in its second year of severe contraction, estimated at a decline of 10-12 percent, compared to an 8.9 percent contraction in 2002. Government statistics placed the unemployment rate at approximately 18 percent; however, about 52 percent of employed adults work in the informal sector of the economy. The petroleum sector provides the vast majority of foreign exchange earnings, although participation of employees of the state-owned oil company in the national work stoppage crippled production during the first quarter of the year. Despite a significant recovery in oil

income and resulting tax revenue for the Government, the country faced ongoing deficits and other financial difficulties. Private economists estimated the government deficit for the year could reach as high as 6 percent of gross domestic product.

The Government's human rights record remained poor; although there were attempts at improvement in a few areas, serious problems remained. The police and military committed extrajudicial killings of criminal suspects. The police reportedly had links to vigilante death squads responsible for hundreds of killings in at least 11 states. Investigations into the forced disappearances by the security forces of criminal suspects remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Prison conditions remained harsh; violence and severe overcrowding constituted inhuman and degrading treatment. Arbitrary arrests and detentions increased. Impunity was one of the country's most serious human rights problems. Crimes involving human rights abuses did not proceed to trial due to judicial and administrative delays. Corruption, lengthy pretrial detention, and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government conducted illegal wiretapping of private citizens and intimidated political opponents. The President, officials in his administration, and members of his political party frequently criticized the media, the political opposition, labor unions, the courts, the Church, and human rights groups. Many government supporters interpreted these remarks as tacit approval of violence; they then threatened, intimidated, and physically harmed individuals from groups opposed to Chavez during the year. The Government abused its legal power to call national radio and television "chains" by requiring all television and radio stations to air over 136 hours of speeches by President Chavez and other government officials, and other programming favorable to the Government. Violence and discrimination against women, abuse of children, discrimination against people with disabilities, and inadequate protection of the rights of indigenous people remained problems. The atmosphere for independent labor unions deteriorated due to the Government's ongoing confrontation with the Venezuelan Workers Confederation (CTV) and fired petroleum sector employees. Child labor increased as economic conditions worsened. Trafficking in persons was a problem, although the Government took steps to reduce corruption among immigration authorities.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

At least a dozen killings during the year may have been politically motivated. Members of the political opposition received death threats and were the victims of intimidation by government supporters. Security forces were accused of committing extrajudicial killings, primarily of criminal suspects. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a human rights nongovernmental organization (NGO), documented 130 extrajudicial killings from October 2002 through September, compared with 137 killings from October 2001 to September 2002. These figures reflected a range of killings in different situations committed by organizations with varying levels of control and responsibilities and included summary executions of criminal suspects and deaths resulting from mistreatment while in custody. Police continued to fire on criminal suspects who disobeyed orders to halt.

The police often failed to investigate crimes allegedly committed by their colleagues and, in 2002, the Government created a separate system for investigating and bringing to trial criminal cases that it deemed political. During the year, one such political case, that of Joao De Gouveia, who shot and killed three individuals present at an opposition rally in December 2002, resulted in a conviction. Prosecutors alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political cases were delayed indefinitely or had a pre-ordained result. In addition, the civilian judicial system struggled to implement the 1999 Organic Criminal Procedures Code (COPP) and remained highly inefficient and corrupt (see Section 1.e.).

On February 16 and 17, the bodies of three soldiers and one woman were found with hands tied and mouths taped shut. All had died from gunshot wounds. A young girl who had been shot and left for dead was found with the corpses. The soldiers had links to a group of dissident military officers who sought to establish an opposition headquarters in the Altamira neighborhood of Caracas in October 2002. Homicide division prosecutors initially began the investigation, only to have the case reassigned to the special police unit and prosecution team in charge of political cases. Police had several suspects in custody, and the investigation continued at year's end.

On April 12, Carlos Manuel Pico Gutierrez was killed under unknown circumstances. Neighbors testified that he had been injured by a police unit formed by four men.

On April 26, pro-government Fatherland for All (PPT) party leader Jorge Nieves was killed in Apure State. On September 23, another PPT-Apure leader, Edgar Patino, was killed. On October 1, Apure State PPT and farm worker leaders accused the terrorist Colombian National Liberation Army (ELN) of the killings. National PPT leader Jose Albornoz disputed the accusation, calling it baseless and imprudent. At year's end, no suspects had been arrested or charged with the killings.

From January through August, eight ranchers were kidnapped and later killed. Their abductions did not follow the region's usual pattern of kidnapping for ransom of a wealthy victim. At times, the kidnappers demanded ransoms well beyond the financial means of the victims or made no ransom demand, then killed the victim, suggesting that some or all were killed at least partially for political reasons, according to ranchers' groups.

On August 27, human rights worker Joe Luis Castillo was killed while driving with his wife and child near their home in Machiques, Zulia State. Two assailants on a motorcycle opened fire on the family; Castillo was hit with 11 bullets in his torso and head. Castillo worked for the U.N. High Commissioner for Refugees (UNHCR) and dealt primarily with Colombians who had fled to Venezuela and indigenous groups. An investigation was under way at year's end.

The Government rarely prosecuted perpetrators of extrajudicial killings and characterized such incidents as "confrontations" (in which use of deadly force is legally justified), even when eyewitness testimony and evidence strongly indicated otherwise. "Death squads" comprised mostly of police reportedly killed hundreds of people during the year in the states of Anzoategui, Aragua, Bolivar, Carabobo, Falcon, Lara, Miranda, Portuguesa, Tachira, Yaracuy, and Zulia. From January to August, 854 cases were registered, according to news reports. In the small number of cases in which the courts convicted perpetrators of extrajudicial killings and other abuses, sentences frequently were light, or the convictions were overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes were rarely imprisoned.

The Public Ministry's Directorate for the Protection of Fundamental Rights is responsible for investigating alleged abuses by officials, including the police. The Chief Prosecutor reported that death squads or police forces killed 1,541 people in 10 states since the end of 1999. In June, Attorney General Isaias Rodriguez instructed the Directorate to expedite death squad case investigations and prosecutions. Rodriguez also met with Portuguesa state officials to formulate a response to the state's death squad activity and conducted surprise inspections in Zulia. Although the number of death squad cases nationwide grew exponentially since 2002, official state responses remained mixed. For example, as of June, Portuguesa had indicted 15 police officers in the deaths of 95 individuals, while Falcon state officials denied the existence of local death squads. The human rights organization Committee for the Families of Victims of 1989 (COFAVIC) documented death squad activity in 11 states, including Falcon. In almost all cases, the victims were young, poor, and had criminal records. According to COFAVIC, death squads commonly demanded money from the victims, and when they were not able to pay, they were killed; such killings were not political. COFAVIC attributed the proliferation of extrajudicial killings to the lack of autonomous public institutions, resources to combat crime by legal means, and government will to root out corruption.

The Anzoategui State Human Rights Ombudsman registered 300 extrajudicial killings from 2000 through May in that state. Of those, 70 percent were attributed to Anzoategui state police and the remaining 30 percent to municipal police, CICPC, and National Guard members. In many of these cases, a family member was targeted for another individual's alleged violation.

There were some killings of demonstrators. On May 1, Ricardo Herrera was shot while participating in an opposition rally. On May 24, Modesto Martinez, described in news reports as an MVR militant and activist, was killed during an opposition march. Both men were killed by unidentified gunmen. On July 17, Juan Carlos Osorio was killed by a National Guardsman while demonstrating against job losses in the petroleum sector (see Section 2.b.).

There were no developments reported in the April 2002 case of 15-year-old Jose Gregorio Lopez, who was killed without provocation while riding his bicycle by municipal police forces.

There were no further developments reported in the September 2002 case of 22-year-old Adolfo Arcia and 19-year-old Elvis Montesinos who were killed by the Libertador municipality police force.

Security forces also killed some prisoners; however, the majority of the inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section

1.c.).

On April 3, an Aragua State court ordered the release of army Lieutenant Alessandro Sicat. The Government appealed the decision, and on August 21, an appeals court reversed the state court ruling and ordered Sicat's immediate detention until the convening of a new trial. As of November, Sicat had not been detained. Sicat sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers in January 2001. Two men were seriously burned; a third, Jesus Alberto Febres, died as a result of burns. A military court convicted Sicat; however, the Attorney General appealed, and in October 2001, the Supreme Court granted a civilian court jurisdiction.

In October, there was one attempted mob lynching in Caracas of an accused rapist. The Metropolitan Police intervened and prevented the lynching. A significant portion of the population tacitly supported "vigilante" death squad actions as the only viable means to control crime.

#### b. Disappearance

The Constitution prohibits forced disappearance and also states that an individual must refuse to obey an order to commit such a crime and provides for the prosecution of the intellectual author of the crime.

From January through August, 68 ranchers were kidnapped, according to the National Cattle Ranchers Federation (Fedenaga). Although rancher kidnappings by Colombian terrorist organizations have been a growing problem in the border states for decades, Fedenaga blamed most of the increase on common criminals and the Bolivarian Liberation Forces (FBL), a relatively new organization allegedly comprised of militant supporters of the President. The Government denied any links to the FBL. According to Fedenaga, organized and professional kidnappings by Colombian groups were being replaced by disorganized, and more dangerous, kidnappings from homegrown criminal gangs and the FBL. They believed the FBL targets ranchers as much for political reasons as economic considerations, demanded untenable ransoms, and was more likely to kill prisoners. Government officials downplayed the importance of the FBL, some even denying the group's existence.

More than half of rancher kidnappings tracked by Fedenaga since 1963 occurred during the past 5 years. There were 116 rancher kidnappings during the year and 103 in 2002. Some kidnappings during the year may have been politically motivated. According to Fedenaga, 22 victims remained captive at year's end.

In an attempt to curtail border lawlessness, the Government announced the movement of 2,700 additional troops to border states. Government officials argued that few resources, increased crime, and the difficulty of differentiating combatants from civilians have hampered their efforts. During the year, the Government discontinued providing National Guard troops to protect threatened ranchers, citing limited resources.

On August 22, the CICPC and the Colombian Police (DAS) freed Christian Democrat (COPEI) leader and former Tachira State Governor Sergio Omar Calderon, who was kidnapped from his Tachira farm on July 25. In a press conference after his release, Calderon stated that he doubted that his kidnappers had acted for political reasons, explaining that they believed that his television appearances indicated that he must be wealthy. The rescuers killed Calderon's five kidnappers during the rescue operation, and their identity remained under investigation.

In September 2002, an appeals court dismissed the case against DISIP Commissioner Jose Yanez Casimiro and retired Commissioner General Justiniano Martinez Carreno in the 1999 disappearances of Oscar Blanco Romero and Marco Monasterio. In February 2002, the Vargas state penal court dismissed charges against the two men because witnesses could not identify them. At year's end, the case was before the Inter-American Commission on Human Rights (IACHR).

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation; however, security forces continued to torture and abuse detainees physically and psychologically. This abuse most commonly consisted of beatings during arrest or interrogation, but there were also incidents in which the security forces used near-suffocation and other forms of torture that left no telltale signs. Most victims were poor (see Section 1.a.).

PROVEA documented 137 cases of torture, beatings, and other abuse from October 2002 through September (affecting 567 victims), compared with 324 cases from October 2001 through September 2002 (affecting 1,064

victims). The human rights organization Support Network for Justice and Peace (Red de Apoyo) received 16 complaints from alleged torture victims during the period from January to May.

The Government did not ensure independent investigation of complaints of torture. COFAVIC questioned the Attorney General's ability to oversee neutral investigations, because he is an active member of the President's political party and served as Vice President. Human rights groups asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Red de Apoyo claimed that the CICPC was the security force most often implicated in accusations of torture. Very few cases of torture resulted in convictions.

In December, a group of military officers and defense attorneys accused Prosecutor Danilo Anderson and other Public Ministry prosecutors of complicity in torturing prisoners. The evidence they presented included statements from two imprisoned National Guard officers.

In January, the DISIP arrested 24-year-old law student Jesus Soriano during a march at Central University of Venezuela. During his incarceration, Soriano claimed that he was placed in a cell with convicted murderer Joao De Gouveia, tortured, and denied medical attention. Two days later, he was released and was admitted to a hospital. The DISIP claimed he was beaten during the march, was a known criminal, and denied all of Soriano's charges.

Four bombings by unknown perpetrators occurred in Caracas from February to July: At the Spanish and Colombian diplomatic missions, at the Caracas Teleport Building, and at a PDVSA office building. FBL leaflets were found nearby after the bombing of the Colombian Consulate. The bombings, which resulted in minor injuries but extensive property damage, were still under investigation at year's end. During the same time period, a fifth bomb exploded in the town of Los Teques southwest of Caracas, for which the FBL claimed responsibility. No one was injured. On August 27, a fragmentary grenade exploded in front of the home of Juan Barreto, a National Assembly deputy and member of the MVR. Two neighbors were injured in that attack. On December 9, a fragmentary grenade exploded inside the Social Welfare Institute for Education Ministry Personnel building in Caracas. Three employees were injured.

Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison population was at 117 percent of capacity with 22 of the country's 30 prisons overpopulated, some severely, according to the Ministry of the Interior and Justice (MIJ). Severe overcrowding in some prisons constituted inhuman and degrading treatment. According to the MIJ, 48 percent of all prisoners were in pretrial detention. Underfunding resulted in the lack of such basic equipment as telephones in the prison director's office. Prisoners often complained of food and water shortages.

The Government failed to provide adequate prison security. In August, 25 prisoners escaped from the Yare I and II prisons in Valles del Tuy southeast of Caracas. The directors of both prisons were replaced, and officials opened an investigation into the possible complicity of guards. According to the MIJ, there were 340 deaths and 1,419 injuries from violence in jails from October 2002 through August. A Window to Freedom, a prison monitoring NGO, recorded approximately the same rate of deaths for the January-November period (300), but more injuries from violence (2,500). Security forces committed a small number of the killings in prisons, and many prisoners died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. However, most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsafe conditions in prison facilities.

On November 10, seven inmates were killed at the Vista Hermosa prison in Ciudad Bolivar. In addition, 6 inmates disappeared and 50 were injured. Official statements indicated that the violence was gang-related, but media reports claimed that the National Guard and prison guards were responsible for the massacre. Authorities were continuing to investigate the incident at year's end.

In May, inmates of La Planta Prison in Caracas became ill with what the Government claimed was salmonella. Two weeks later, 548 prisoners had become ill and 4 had died. Prison officials confirmed privately that the outbreak was caused by dead rats in the prison's water supply. The Government claimed that the outbreak was the result of contaminated food.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, most prisoners got their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, especially as convicted murderers and rapists often were housed with unsentenced or first-time petty offenders. Gang-related violence and extortion were fueled by the substantial trafficking in arms and drugs that occurred in prisons. Prison officials often illegally demanded payment from prisoners for transportation to judicial

proceedings (see Section 1.e.).

On March 7, hundreds of prisoners in the Barcelona Prison took more than 300 visitors hostage to demand more food, medical attention, and COPP benefits, such as permission to work outside the prison and access to the early release program. The standoff ended on March 19 with the release of all hostages. No one was injured, and 52 prisoners won access to various COPP benefit programs.

Women inmates were held in separate prisons, where conditions generally were better than those in the men's facilities. Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

Despite objections from the Catholic Church and NGOs, the Government sporadically used the National Guard, normally charged with exterior prison security, to maintain internal control of prisons.

The Government permitted prison visits by independent human rights observers; however, internal criticism was not well tolerated (see Section 2.a.).

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution and the 1999 COPP provide for freedom from arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily.

The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Interior and Justice Ministry controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is responsible for investigating cases of corruption, subversion, and arms trafficking. Municipal mayors and state governors are responsible for local and state police forces, and maintain independence from the central Government. Often, mayors and governors look to the National Guard for the top leadership for state and municipal police forces. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and is headed by a career police officer, rather than a military officer. The Government intervened in the administration of the Metropolitan Police in November 2002, alleging that the police force was repressing pro-government protests. Following a Supreme Court decision on October 7, the Government returned control to the local authorities approximately 2 weeks later.

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person was caught in the act of committing a crime, or a judge determines that there was a danger that the accused may flee or impede the investigation. Detainees have the right to a judicial determination of the legality of their detention within 3 days, but there is no law to implement the constitutional protections. The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In no case may the detention of a person accused of a crime exceed the possible minimum sentence for that crime, nor may it exceed 2 years. Under the COPP, persons accused of petty crimes who have not been convicted but already had been in custody 2 years or the minimum sentence possible for that crime (whichever is less) are to be released if they pass a psychiatric examination. However, confusion over implementation of the COPP still existed, and arbitrary arrests continued to be common. In 2001, the National Assembly broadened the definition of the "in flagrante" circumstances in which a person may be apprehended and lengthened slightly the time provided to police to present charges prior to the release of an arrested individual. Human rights groups claimed this change led to an increase in detentions.

Under the provisions and benefits provided by the law, approximately 9,000 prisoners were released in 2000, the last year for which statistics were available. There were 19,466 prisoners at the end of 2002, 49 percent of which had not been convicted of a crime and were held without bail. Prisoners had reasonably good access to counsel and family members.

There continued to be arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the CICPC, especially during anticrime sweeps in poor sections of major cities. PROVEA documented 3,627 persons detained in sweeps from October 2002 through September, compared with 4,549 persons similarly detained from October 2001 through September 2002.

On October 5, 16-year-old Deivy Jaspe Gutierrez was arrested for offering resistance to police after he and three others were ordered to exit their vehicle, which was halted arbitrarily. Jaspe recognized one of the police officers as the alleged killer of his brother Carlos Manuel Pico Gutierrez (see Section 1.a.). At the police station, he was hit several times and then released.

On November 8, municipal police in Puerto La Cruz, Anzoategui State, detained six young men who were banging pots and pans in protest against the President, who had just arrived with his entourage. According to media reports, police accused the men of throwing rocks at the President and of trying to kill him. The men claimed they were beaten and robbed during their 5-day detention. On November 12, the judge hearing the case released the men, citing insufficient and unfounded evidence against them.

In December 2002, the DISIP detained National Guard General Carlos Alfonzo Martinez while participating in an anti-Government demonstration and placed him under house arrest. On February 28, the Attorney General charged him with rebellion, desertion, and violating national security zones before the Supreme Court. In September, Martinez was transferred to the Military Detention Facility in Los Teques, Miranda State; he had been under house arrest for approximately 8 months. The Supreme Court and the Inter-American Human Rights Court ruled that he should be released, but the Government had not responded at year's end.

Human rights activists in border areas alleged that security forces continued to detain individuals and groups arbitrarily, citing the need to examine identity documents. Hundreds of Colombian nationals reportedly were detained and deported without due process (see Section 2.d.).

Forced exile is illegal.

#### e. Denial of Fair Public Trial

The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges were subject to influence from a number of sources, including the executive branch.

From January 2001 to March, panels of legal experts selected judges in competitive examinations. On March 12, the Supreme Court suspended the competitive process without explanation, and announced that the Judicial Commission, composed of Supreme Court justices, would select judges. By statute, the Supreme Court can suspend the competition only when it suspects irregularities in the process. The inability to establish a transparent and efficient selection process has led to a shortage of permanent (titled) judges, who make up less than 30 percent of all working judges. According to the DEM, corruption was widespread among the provisional and temporary judges who represented over 70 percent of working magistrates.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Public Prosecutor, who provides opinions to the courts on prosecution of criminal cases and brings to the attention of the proper authorities cases of public employee misconduct and violations of the constitutional rights of prisoners or accused persons; the Ministry of Interior and Justice, which manages the DISIP and the CICPC, files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistracy (DEM), which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

The 1999 COPP provides for the right to a fair trial and considers the accused innocent until proven guilty in a court. The COPP also introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. Defendants and complainants have the right of appeal. The adversarial system establishes the right to plead guilty without trial and make reparation agreements; however, lengthy delays in trials remained common.

A November 2001 amendment to the COPP strengthens out-of-court settlements and increases victims' rights to compensation; provides physical protection to crime victims during trials; bolsters the work of juries for some crimes and eliminates them for others; eliminates some sentence reduction benefits for jailed criminals; and expands powers of detention (see Section 1.d.).

The law provides for public defenders for those unable to afford an attorney; however, there were not enough public defenders. According to statistics from the DEM, as of September there were 619 public defense attorneys for the entire country, of which 188 were dedicated exclusively to juvenile cases and 431 for all other cases. In 2002, public defenders handled more than 63,000 cases throughout the country, with an average caseload of 150 cases per public defender. In some states, the average annual caseload was as high as 520 per public defender.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings. Those who were unable to pay often were forced to forgo their hearings (see Section 1.c.).

On July 21, the Supreme Court declared a 60-day state of emergency in the DEM, placed it under the supervision of Justice Yolanda Jaimes Guerrero, and opened an investigation into alleged mismanagement by former DEM coordinators. The investigation continued at year's end.

On October 23, the Supreme Court ordered the replacement of the First Court for contentious administrative matters with two new courts for contentious administrative matters. On November 3 and 4, three of the First Court's five judges were dismissed, and the Supreme Court announced that they would not be appointed to either new court. The dismantled First Court heard cases involving alleged illegal government actions. The three dismissed judges formed a majority that issued several rulings contrary to key Government interests since December 2002. Domestic and international law groups criticized the actions against the First Court and the three judges as interference with the independence of the judiciary. At year's end, creation of the new courts and selection of judges were still in process.

The military courts continued to implement a reform similar to the COPP in the military justice system. The Constitution established that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution.

On April 3, an Aragua state court ordered the release of army Lieutenant Alessandro Sicat who had been charged with a human rights violation. The Government appealed the decision, and on August 21, an appeals court reversed the state court ruling and ordered Sicat's immediate detention until the convening of a new trial (see Section 1.a.).

Human rights NGOs continued to express concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, especially during anticrime sweeps in poor neighborhoods. Reports of illegal wiretapping and invasion of privacy by the security forces increased during the year; many of these activities targeted members of the media (see Section 2.a.). In October and November, the Government released recordings of conversations it alleged occurred among opposition leaders. The Government did not acknowledge how it obtained the recordings.

On August 12, DISIP agents accompanied by a prosecutor with a search warrant entered the offices of an opposition political party ostensibly to search for counterfeiting equipment (none was found). Party members present claimed that the raid's actual purpose was to create a political distraction and possibly to plant listening devices. There were also reports that DISIP listened to phone conversations of witnesses to extrajudicial killings in Falcon State. Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (see Section 1.a.).

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; although the Government generally respected these rights in practice, press freedom deteriorated during the year with efforts by some persons associated with the Government to provoke, threaten, or physically harm or encourage others to attack private media owners, their installations, and journalists working for them. Physical violence against the media declined during the year in comparison to 2002. Government pressure against the media--tax investigations, technical inspections and seizures, and verbal condemnation--increased, as did legislative efforts to limit private media's ability to exercise freedom of expression. During the year, both sides also continued accusing one another of broadcasting subliminal messages to incite violence against the other group.



There were reprisals against individuals who publicly criticized the Government. In April, the general coordinator of the prison monitoring NGO A Window to Freedom, was fired from his teaching position at the National University Institute of Penitentiary Studies after commenting on the country's poor prison conditions to a foreign journalist (see Section 1.c.). In September, there were news reports of individuals fired from private sector jobs, of students denied internships, and of military officers disciplined or discharged because they signed the petition for a referendum on the Presidency (see Section 3).

Print and electronic media were independent, although many felt threatened by the Government and its sympathizers. There were at least 77 newspapers; 89 magazines and weekly journals; 344 mainstream and over 150 community FM and AM radio stations; and 31 television channels, 23 of which are outside the metropolitan Caracas area. These community radio and television stations are distinct from mainstream commercial media in legal status, frequency licensing requirements, and advertising regulations. Most community media were new and were pro-government in editorial policy.

The Government-owned a national television station, Venezolana de Television (VTV); a metropolitan Caracas television station, TV Venezuela; a national radio network, Radio Nacional; and a newswire service, VenPres, whose directors are named by the President. The President had a weekly show on state television, radio, and the Internet. Independent media observers criticized the state media for extreme pro-government politicization. During the year, state media employees continued to complain about purges of employees considered to be anti-Chavez, and some employees of Radio Nacional and VTV claimed they lost their jobs because of their political views.

Individuals and the media freely and publicly criticized the Government; however, as noted by the IACHR Special Rapporteur on Press Freedom, reprisals and threats of violence against journalists and media organizations restricted freedom of expression in practice. President Chavez repeatedly singled out media owners and editors and charged that the media provoked political unrest. The statements resulted in a precarious situation for journalists, who were often attacked and harassed.

According to media sources and published reports, at least 1 reporter was shot and approximately 70 physically attacked with weapons such as clubs, knives, rocks, and battery acid while covering street demonstrations and political rallies. In 2002, 7 reporters were shot and more than 80 were physically attacked. During the year, approximately 50 reported having received threats, in some instances telephoned death threats; there were 100 such reports in 2002. According to the NGO Reporters Without Borders, the Government committed 93 "aggressions against journalists" during the year. At least six attacks involved the use of bombs or other explosive devices. There were over 60 attacks on installations or media property.

In his annual message to the National Assembly in January, the President declared the "year of the war against the media." International organizations and domestic journalists charged the Government with encouraging a climate of hostility toward the media that jeopardized freedom of the press.

In May, Human Rights Watch (HRW) issued a report regarding threats to freedom of expression, estimating that at least 130 assaults and threats of physical harm to journalists and press property occurred during January 2002 and through February, mostly committed by pro-Chavez civilians. The report also criticized the government investigations into four private television stations and the proposed Law of Social Responsibility in Radio and Television (Broadcast Media Content Law). The Vice President rejected the HRW argument as a biased intrusion in domestic affairs. Under the bill, which was pending its second reading in the Assembly, broadcasters must release "truthful information." Additionally, television companies, advertisers, and broadcasters could be punished for transmitting "contents that promote, defend, or incite lack of respect of legitimate authorities." Programs containing violence of any kind, including coverage of disasters, political conflicts, and criminal incidents, would be restricted to the hours of 11:00 p.m. to 5:00 a.m. The bill would require disclosure of sources of information and would assign to the National Telecommunications Commission (CONATEL) the task of determining whether broadcast contents meet regulations. Heavy fines would be imposed on violators. On October 23, the official news service, VenPres, published comments by the HRW Executive Director that appeared to support the proposed broadcast media law. HRW immediately issued a statement that VenPres had taken the comments out of context and used them in a misleading way.

Both government and private media were highly politicized. HRW criticized private media for their pro-opposition bias. The Government asserted that some of the private media owners participated in the failed 2002 coup attempt, and claimed that some media were continuing to plot anti-constitutional measures. Most media owners state that they feared the Government planned to curtail basic liberties. Many journalists expressed dismay over the hostility and lack of communication between the groups. There were credible reports of state security agents spying on, harassing, intimidating, and physically attacking journalists. There were numerous cases of wiretaps of journalists, media owners, and media telephones, apparently without legal authorization (see Section 1.f.).

In August, the Cuban Government distributed a video titled "The Vulgar Fallacies of El Universal of Caracas," in an apparent attempt to discredit El Universal's investigation of the alleged diversion of government funds to assist the Cuban regime. Cuban television also broadcast the video. Government media accused private media of defaming and slandering government leaders and attempting to overthrow the Government.

Violent or threatening pro-government demonstrations occurred at several media offices. In August, two men on a motorcycle threw an explosive device into Regional Tachira radio station's parking lot and left flyers saying, "We will eliminate media terrorism." Also in August, El Mundo reported that National Guardsmen had stopped its delivery truck in Barquisimeto and accused the paper of being anti-Chavez; only after paying a small "fine" was the truck allowed to proceed. At year's end, none of these cases had been resolved.

In August, VTV announced a march on RCTV, which was followed by a group of Chavez sympathizers who spray-painted threats to the channel's vice president on the station's front wall: "Marcel G en la mira militar" (Marcel G in the crosshairs of the military), a reference to the station's owner.

Although the bulk of attacks were directed against private media journalists and installations, there were also actions against journalists and installations affiliated with the Government. In June, Catia TV, a government-sponsored community television station closed temporarily by order of opposition Mayor Alfredo Pena with jurisdiction over Catia. Several days later, the mayor's office re-opened the station, apologized for the closure, and noted that it did not have the authority to intervene in the operations of the media.

In November 2002, the Inter-American Human Rights Court applied "provisional actions" to the Government, the next step after the Court's "precautionary actions," for the Government's failure to protect individual rights, safety, and freedom of expression. The provisional actions ordered the Government to investigate and punish those responsible for aggressive acts and to publicly condemn violence against the media. At year's end, the Government had not responded to the Court's provisional actions.

In December 2002, the OAS Permanent Council's Resolution 833 called on the Government to ensure full freedom of expression, based on the OAS Democratic Charter. During the year, the IACHR Special Rapporteur for Freedom of Expression criticized the administrative proceedings against private television channels and radio communications regulations that forbid transmission of false or misleading information; condemned an attack against columnist and talk show host Marta Colomina; and criticized the July 15 Supreme Court decision to uphold laws making it a crime to insult, injure, or threaten public officials. At year's end, the Government had not successfully investigated any of more than 80 assaults on and threats against journalists and at least 40 reported attacks on media installations and equipment during the year.

Since late 2002, the Ministry of the Interior and Infrastructure opened a number of administrative cases against Globovision, RCTV, Venevision, and Televen. The following cases were unresolved: Globovision had three pending cases for alleged misuse of content (including subversion of public order and the slander and libel of government officials and institutions; RCTV had seven court cases based on the Organic Law for the Protection of Children and Adolescents (for inappropriate programming); Venevision had one administrative case for alleged violation of the national broadcasting regulations, which prohibits the transmission of messages that incite rebellion and disrespect for institutions and officials, as well as the broadcasting of propaganda that subverts public order and the transmission of false or misleading news. CONATEL also submitted charges based on its allegations that Venevision was delinquent on its tax payments. Venevision appealed the case; Televen had one administrative case for broadcasting opposition civil and military leaders' statements and propaganda between October 2002 and January, as well as for televising opposition ads between 3:00 p.m. and 6:00 p.m. (hours reserved for children's programming).

On October 3, CONATEL filed administrative charges against Globovision and seized microwave equipment alleging the station had used it to broadcast on illegal frequencies. The seizure limited the 24-hour news station's ability to cover live events. The IACHR issued two precautionary measures in favor of Globovision in October calling on the Government to return the equipment and to ensure a speedy resolution of the case by impartial and independent Venezuelan judges. On October 3, Globovision filed an appeal with the First Court for Contentious Administrative Matters. On October 8, the First Court voted in favor of Globovision and ordered the return of the equipment while CONATEL determined the outcome of the case. The same day, the Supreme Court closed the First Court and suspended the judges who had ruled in favor of Globovision; their ruling was never released. At the request of the Attorney General, the Second Court of Appeals of the Penal Judicial Circumscription ruled that the Court's protective measures previously issued for certain journalists be extended to all journalists, technicians, representatives, directors, and employees of five private television stations: Globovision, RCTV, Venevision, Televen, and CMT. The ruling noted consequences the Government might face if it failed to comply with international obligations, including the IACHR's protective measures. The ruling also ordered local and Miranda

State authorities to guarantee the safety of personnel and protection of assets of private TV stations, including microwave and other broadcast equipment. On December 9, CONATEL fined Globovision approximately \$364,000 (582,000,000 bolivars) for illegal use of frequencies and announced that it would not return the microwave equipment it seized from the television station on October 3.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. Media figures criticized the Supreme Court's 2001 ruling that established criteria for determining and exercising the right to timely, true, and impartial information.

According to the Constitution, it is "contrary to the freedom of information" for a medium to criticize ideas, rulings, etc., without indicating what is being criticized. A 2001 Supreme Court ruling established criteria to determine whether a media report is "true" or not. Violations included expressing opinions that contain statements that were "out of context, disconnected, or unnecessary for the topic, or offensive, insidious, or degrading expressions unconnected to the topic, or unnecessary for the forming of public opinion." The ruling affirmed that information could be censored prior to publication if it violates Article 57 of the Constitution, which prohibits anonymous authorship, war propaganda, and messages that promote discrimination or religious intolerance. The Supreme Court also ruled that the true information clause would be violated if a majority of a medium's editorial writers express the same ideological tendency, unless that medium openly declares itself to be a party to those views. In May 2002, the Supreme Court ruling was taken to the IACHR to be submitted to the Inter-American Court of Human Rights. At year's end, there was no decision on the case.

According to the 2000 Organic Telecommunications Law, the Government may order obligatory national broadcasts (cadenas), pre-empting scheduled programming. Domestic and international observers criticized the Government for excessive abuse of this right. As of August, the Government increased the frequency and length of cadenas. According to private media sources, there were approximately 162 hours of cadenas during the year, compared with 73 hours in 2002.

The Government influenced the press through licensing requirements for journalists, broadcast licensing concessions, and public sector advertising. Some commercial radio stations complained that the allocation of frequencies to community stations violated broadcast regulations, according to the National Venezuelan Radio Broadcasting Chamber. Funding for the stations reportedly came from the Government, not the communities, and the broadcasts were pro-government.

The Government denied equal access of private media journalists to many official events. Beginning in December 2002, the presidential palace denied access to reporters from private media, while state controlled media and some foreign news reporters continued to have access.

Media analysts, journalists, and other observers alleged that the Government used criminal defamation and libel laws to intimidate or harass the media. Because of the lengthy process and considerable legal costs, some observers regarded these lawsuits, or threats of lawsuits, as attempts to discourage investigative journalism. The editor of La Razon newspaper remained overseas because of one such long-running lawsuit. Other media owners and executives sent their families abroad fearing they could be attacked or kidnapped if they were to remain in the country.

In July, army Colonel Angel Bellorin and MVR Deputy Luis Tascon sued journalist Ibeyise Pacheco for defamation of character. Pacheco printed accusations that Bellorin had altered the grades he received while a university student and published a photo linking Tascon to the events of April 11, 2002. The case was pending at year's end.

On December 23, the DIM ordered that a book written by Luis Pineda Castellano, former chief of security for President Chavez, be removed from sales shelves at the National Armed Forces library. Castellano's book included accounts of his 29 years in DISIP, citing stories of the President's responsibility for concealing irregularities.

The Telecommunications Law permits the President to suspend media broadcasts when he judges it to be in the national interest. Some observers believed this law could allow the suspension of broadcasts for vague and arbitrary reasons. During the year, the President referred to this law many times and threatened to revoke commercial broadcast licenses or not convert pre-2000 licenses to new ones. Many media professionals complained that investigations of television and radio stations by CONATEL were politically motivated.

There were at least 15 government administrative interventions in private media during the year, and the President

publicly accused media owners and institutions of tax evasion. Media figures charged that the Government used ongoing tax investigations to pressure media owners. The CONATEL web page highlighted its fining of Globovision for the station's alleged delay in tax payments. The fines totaled over \$310,000 (496 million bolivars); Globovision asserted it had paid all required taxes.

The Government did not restrict access to the Internet.

While academic freedom traditionally was generally respected, government funding was withheld from the country's universities. Rectors of those institutions charge that the Government did so to punish them. All of the major public university rectors were elected on anti-government platforms. In July, the Government established the Bolivarian University while withholding budgeted funds to many of the existing universities. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government appoints a majority of members. The Government successfully replaced the leadership of other universities, mostly in the interior of the country, with political allies.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly and association, and the Government generally respected these rights in practice. Public meetings, including those of all political parties, generally were held unimpeded, although numerous marches and rallies were disrupted by alleged government supporters. The Government required permits for public marches but did not deny them for political reasons.

The Constitution prohibits the use of firearms to control peaceful demonstrations. Supporters and opponents of the Government repeatedly demonstrated in the capital and other cities during the year. Several demonstrations resulted in injuries or loss of life. Both the authorities and the demonstrators used firearms (including military weapons), tear gas, and billy clubs against each other.

The opposition held several rallies in neighborhoods considered pro-government strongholds, leading to government accusations that the rallies were intended to provoke supporters of the President. Opposition organizers claimed their intention was to reveal the opposition's high level of support among the poor. The Government did not stop the rallies from taking place.

On March 8, an opposition march turned violent after DISIP was unable to capture Juan Fernandez, the president of Petroleum People, the civil society organization and support group for fired PDVSA workers. Protesters attacked DISIP vehicles and officers, who withdrew using tear gas.

In April, four men who were identified shooting at demonstrators from Llaguno Bridge in downtown Caracas, and arrested after the temporary alteration of constitutional order in April 2002, were released after an appeals court ruled there was insufficient evidence to hold them. Both opposition and government supporters claimed case evidence had been manipulated to favor the other side. On September 17, a judge cleared the four of all charges against them, citing lack of evidence. The prosecutor appealed the decision, but at year's end the case had not been concluded.

On May 1, Ricardo Herrera was shot while participating in an opposition rally in Caracas. Police claimed to have a suspect in custody. On May 24, Modesto Martinez, described in news reports as an MVR militant and activist, was killed during an opposition march in the Catia neighborhood of Caracas. No one was charged with his death. On July 17, Juan Carlos Osorio was killed by a National Guardsman while demonstrating in Anzoategui State against job losses in the petroleum sector (see Section 1.a.).

The Government alleged that the Caracas Metropolitan Police used excessive force during various demonstrations; however, no charges were brought against officers. On June 13, the Metropolitan Police used tear gas and shotguns to disperse government supporters who were threatening an opposition rally in the Petare district of Caracas. Police reported that pro-government demonstrators targeted them with firebombs, and violence broke out. The pro-government protesters destroyed the police post.

In September 2002, the Government issued a decree establishing eight security zones within Caracas. The decrees gave the central Government, rather than municipal officials, the authority to permit demonstrations there. The zones included areas around military installations, state television and radio stations, and PDVSA headquarters and continued in force throughout the year. Opposition groups criticized these security zones as a restriction on the right of assembly. In August, the Minister of the Interior complained that opposition groups planning a rally in support of the recall of the President had not coordinated security for the event with the proper

authorities. The Minister cited concern that the march routes published in newspapers indicated they would be going through some security zones; however, the Government did not impede the marches or the rally.

Professional and academic associations generally operated without interference; however, in 2000, the Supreme Court ruled that NGOs that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent citizens in court or bring their own legal actions; and that religious organizations are not part of civil society and were subject to the same restrictions. The ruling stated that the Government has an obligation to ensure that NGOs are "democratic in nature" and therefore, the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the CNE. The Government had not moved to implement the Court's decision.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, on the condition that the practice of a religion does not violate public morality, decency, or the public order, and the Government generally respected this right in practice.

In 1964, the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. Other religious groups receive monetary assistance for the repair of building for religious use; however, the amount available to non-Catholic groups was less than 7 percent of the annual religious subsidy budget. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government, except in the form of building repairs.

Religious groups must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups complained that the process of registration was slow and inefficient. A special visa is required for foreign missionaries to enter the country. Missionaries were not refused entry generally, but faced the general bureaucratic inefficiency of the Government taking months or years to process a request.

In May, Archbishop Baltazar Porras, chairman of the Venezuelan Bishops' Conference, accused the Government of seeking to destroy the Catholic Church's credibility by manufacturing scandals aimed at priests and bishops. He described a series of attacks on churches, cathedrals, and priests' houses whose apparent aim was to create fear, rather than steal objects of value. Prior to at least one attack, normal police presence had been withdrawn after authorities allegedly claimed it was a privilege the Catholic Church should not enjoy.

On September 21, during his weekly national broadcast, the President referred to the Bishops' Conference as "liars" and "immoral" for allegedly using church services to distribute leaflets and other messages in support of the opposition.

In December, there were five attacks on churches and church symbols. On December 6, pro-government groups marching to a presidential rally in Caracas decapitated a statue of the Virgin Mary in Altamira Plaza, a site associated with the opposition. On December 9 and 16, unknown arsonists set a church on fire in Los Teques, Miranda State, damaging an outside wall and destroying two shrines. On December 10 and 12, statues of the Virgin Mary and other religious images were destroyed in Cardon, Falcon State. The Catholic Church accused the Government of organizing the attacks. Government officials denied responsibility and blamed dissident military officers, infiltrators, and opposition supporters. Authorities had four suspects in custody for the Falcon State attacks, and at year's end, investigations of all the attacks continued.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return, and the Government generally respected these rights in practice. However, the Government may suspend the freedom to travel. The Government also restricted foreign travel for persons being investigated for criminal activities. In addition, the Government requires persons who are departing the country with minors that are not their children to present to immigration officials proof of authorization from the minors' parents.

Both the Constitution and the Organic Refugee Law that took effect in October 2001 provide for the granting of refugees status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of

Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status.

Implementing regulations for the Refugee Law have not been drafted; the new National Refugee Commission was sworn in on August 7. The Commission will receive and decide applications for refugee status. At year's end, there was still no formal mechanism for those seeking asylum to legalize their status. During the year, the UNHCR worked with the Attorney General's office to investigate cases on an ad hoc basis to speed the Commission's ability to decide cases once it can begin doing so.

Persons who applied formally for refugee status received no provisional documentation that legalized their presence in the country. Therefore, they had no legal protection, and could not legally work, attend public school, or receive public health services. National Guard troops rarely investigated the cases of undocumented aliens found at security checkpoints along the border before deporting them. In July 2002, PROVEA requested a ruling from the Supreme Court that would give temporary legal status to refugees. Nearly a year later, the Court requested additional information from PROVEA and the Government but did not issue a ruling. UNHCR reported that files were often lost or misplaced, since the Attorney General's Office had no fixed department to centralize the processing of these cases.

As of August, there were approximately 200 persons in the country who had been granted refugee status from prior years, and approximately 1,500 additional refugee claims pending.

In theory, the Government provides temporary protection; however, the Government denied the existence of all but a small number of Colombian refugees who crossed the border and claimed to be fleeing paramilitary incursions. It called those Colombians whose presence it did acknowledge, "displaced persons in transit." According to UNHCR, the number of small groups entering the country, including individuals and small family groups, increased. In these cases, the persons often chose to blend into the local population rather than apply for formal refugee status.

On December 22, authorities denied Juan Fernandez permission to travel out of the country. Fernandez, the head of Petroleum People, faced pending charges of sabotage and treason for his alleged role in the national work stoppage (see Sections 2.b. and 6.b.).

There were no reports of forced return of persons to a country where they feared persecution. In 2002, the latest year for which numbers were available, the National Guard in the border region in Zulia, Tachira, and Apure states, reported that they deported on average 42 Colombian nationals per day. As of August 2002, they deported 9,533 persons. Although the law requires the authorities to take 30 days to investigate each undocumented person's case, this was done only rarely.

### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. The Constitution also permits citizens to request recall referenda after the mid-point of the term of all elected officials. Political parties organize, and their candidates are allowed to run for office freely and to seek the support of voters. The President has extensive powers, and the legislature appoints the members of the Supreme Court, the CNE, and the Citizen Power Branch consisting of the Ombudsman, Public Prosecutor, and Controller General.

Opposition groups and political parties have sought to remove President Chavez from power since 2002. In April 2002, military officers with the support of some opposition groups illegally detained Chavez, and opposition business leader Pedro Carmona, without any constitutional authority, proclaimed himself interim president and suspended the National Assembly and the courts. On April 14, 2002, troops loyal to Chavez returned him to power. During the accompanying violence, there were as many as 18 deaths and more than 100 injuries, as well as looting. An investigation into the April violence, plagued by irregularities, failed to result in any convictions.

In February, opposition groups collected approximately 3 million signatures from citizens to petition a referendum to recall the President. On August 20, the petitions were submitted, but the Supreme Court ruled they were invalid since they had been collected before the President had completed half of his term of office. On May 29, government and opposition representatives signed an agreement, after months of negotiation under OAS auspices, that acknowledged respect for the Constitution and its provisions that give citizens the right to hold a recall referendum for any elected official, including the President. Meanwhile, the National Assembly failed to agree

on the membership of a new CNE and on August 14 was found to be in "constitutional omission" by the Supreme Court for this failure. In September, the Court named the CNE, which then rejected the opposition's petition based on the February signatures. Using rules formulated in September, the opposition then conducted another signature drive at the end of November. The Government and opposition also collected signatures to petition for referenda to recall more than 70 legislators. The CNE was expected to verify the signatures collected at both events by January 2004.

On August 14, a judge ruled against the Human Rights Ombudsman for converting 79 types of career civil service jobs into political appointments. Career employees who had lost their jobs as a result claimed that the process was used to remove those who were not pro-government. In September, there were news reports of individuals fired from private sector jobs, of students denied internships, and of military officers disciplined or discharged because they signed the February petitions for a referendum.

Women and minorities participated fully in government and politics. The National Assembly's Family, Women, and Youth Committee promotes political opportunities for women. In the 2000 elections, women won 20 seats in the 165-seat Assembly. There are 2 women in the 18-member Cabinet. In the Citizen Power Branch, a woman holds the position of Solicitor General. The 20-member Supreme Court includes 2 female justices.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The 1999 Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the 2000 election. There were no indigenous members in the Cabinet. One of the vice presidents of the National Assembly is an indigenous person.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were occasionally responsive to their views. However, NGOs objected to a 2000 Supreme Court ruling that imposed restrictions on NGOs that receive funding from foreign governments should they be found to be "undemocratic in nature" (see Section 2.b.). This ruling has not impeded the work of NGOs.

There have been no meetings between President Chavez and NGOs to discuss human rights issues since 1999. However, NGOs have developed relationships with specific government bodies such as the Ministry of Education (to develop educational materials on human rights), the Foreign Ministry (to discuss the resolution of existing human rights cases against the Government in international tribunals), and the National Assembly (to discuss proposed legislation affecting human rights).

Several human rights NGOs received an increased number of threats and intimidation by government representatives and government supporters. Throughout the year, COFAVIC received e-mail and telephone threats from persons who identified themselves as Chavez supporters. The Attorney General's office and Human Rights Ombudsman's office did not pursue requests by COFAVIC for investigations of this harassment. In 2002, the IACHR recommended that the Government provide police protection to COFAVIC's offices and director. The Government did not respond to this request. The Metropolitan Police provided bodyguards for the COFAVIC director and protection in and around COFAVIC's office. On December 2, the IACHR issued a report stating that the Government had not effectively implemented its recommendations. In addition, the IACHR reported that attacks on COFAVIC's director and other officials were directly linked to the NGO's defense of human rights.

In August, the IACHR ordered the Government to pay \$1,559,800 (2,495,680,000 bolivars) to compensate relatives of the victims of the Caracazo riots and killings of 1989, the events that prompted formation of COFAVIC. In 2002, the IACHR had called for the Government to prosecute those responsible for the Caracazo and to compensate the victims' families within 1 year.

On October 8, the President declared that the Government was not obligated to comply with decisions of the IACHR. He also stated that compliance with the IACHR order to return confiscated broadcasting equipment to the media outlet Globovision would uphold criminality.

The Ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state and, together with the Public Prosecutor and Controller General, make up the Citizen Power branch of government. Human rights NGOs claimed that the Ombudsman's office acted on only a small number of cases presented to it.

COFAVIC claimed that the Ombudsman and the Attorney General's Office were not independent of the Executive Branch and were therefore unable to carry out effective investigations.

On August 27, Joe Luis Castillo, an employee of the UNHCR, was assassinated in Machiques, Zulia State. Many human rights organizations and the IACHR called on the Government to investigate the killing and to do more to protect human rights workers. Rumors circulated that Castillo, in his professional role, may have aided a member of a paramilitary group, garnering the anger of rival groups. Ombudsman German Mundarain asked and Attorney General Isaias Rodriguez agreed to assign a special prosecutor to the case. At year's end, no suspects had been identified or charged.

On July 1, HRW criticized the Government's proposed law to regulate broadcast media and its ongoing investigations of four private television stations as detrimental to the exercise of free speech. The Government responded with a personal attack on the HRW Executive Director but did not address the substance of HRW's concerns (see Section 2.a.).

On June 11, Freddy Gutierrez was elected to the IACHR. Previously, the Government had few dealings with the Commission, causing concern among human rights groups about the Chavez administration's lack of a human rights agenda. Some human rights groups saw Gutierrez' presence on the Commission as the Government's attempt to reduce or deflect criticism from the Commission, rather than as genuine concern for human rights.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government did not protect women adequately against societal and domestic violence and did not ensure persons with disabilities access to jobs and public services, nor did it safeguard adequately the rights of indigenous people during the year. On June 29, several hundred participants demonstrated against discrimination toward homosexuals and to demand equal rights for them.

#### Women

Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence during the year. Domestic violence against women was common and was aggravated by the country's economic difficulties. The Venezuelan Association for Alternative Sexual Education (AVESA) registered 40 cases of domestic violence. At year's end, AVESA was working to compile domestic violence statistics from other NGOs and governmental entities to reflect more accurately the extent of the problem. Many domestic violence cases were not reported to the police, according to women's organizations. The police generally were unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse, according to local monitors. In addition, poor women generally were unaware of legal remedies and have little access to them. The law requires police to report domestic violence and obligates hospital personnel to notify the authorities when it admits patients who are victims of domestic abuse cases.

Rape is extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the crime. A provision in the Penal Code also provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to assist rape victims. AVESA registered 330 cases of rape or attempted rape during the year; a majority of the victims were children. However, women's organizations asserted that these figures were low and did not accurately portray the problem of rape and sexual assault. They claimed that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt.

One human rights organization received reports that women were trafficked to Europe for purposes of prostitution (see Section 6.f.).

Sexual harassment in the workplace was a common problem but is not a criminal offense.

Women gradually surmounted many of the barriers to their full participation in political and economic life;



nonetheless, they still were underrepresented in leadership positions and, on average, earned 30 percent less than men. Women accounted for approximately half the student body of most universities and advanced in many professions, including medicine and law. A 2000 government decision allowed women to attend military academies and serve in expanded roles as officers in the armed forces. As of August, 70 women were in training at the Army's military academy, 60 were in training at the Naval academy, 39 were at the Air Force academy, and 75 were in training at the National Guard academy.

Women and men are legally equal in marriage. The Constitution provides for sexual equality in exercising the right to work. The 1990 Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for 1 year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the Confederation of Venezuelan Workers (CTV), the country's major labor federation, these regulations were enforced in the formal sector, although social security payments often were delayed.

In 2001, the National Institute for Women--an agency of the Presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor--designed two programs to assist women in need and enhanced the economic independence of women. The first program was the "Women's Bank" to provide small-scale financing to micro-enterprises run by women. In February 2002, the Government said that \$10 million (15 billion bolivars) had been placed into this fund, and numerous micro-loans were issued during the year. There were allegations of corruption and mismanagement within the fund. In August, the bank admitted that it had negative balances, and the Central Bank of Venezuela called for it and other microfinancing institutions to be placed under greater regulatory supervision. The second initiative was the Women's Shelters Program--the construction of a series of centers to receive, care for, and rehabilitate women in distress.

There were a number of NGOs concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups were not implemented widely by the police or other concerned government agencies.

#### Children

The Organic Procedural Law on Adolescents and Children establishes legal protection of children under the age of 18, regardless of nationality; however, observers expressed concern over the slow implementation of the law's provisions. Government expenditures on education, health, and social services decreased during the year due to a weakening economy and government budget deficits. Primary and secondary education was chronically underfunded. According to the Constitution, the State is to provide free education up to the university-preparatory level (15 or 16 years old) and the law provides for universal, compulsory, and free education; however, an estimated 57 percent of children left school before the 9th grade.

In addition, approximately 1 million children were not eligible to receive government assistance, including public education, because they were either illegal aliens, or their births were not documented properly, according to the annual report of the NGO Community Centers for Learning (CECODAP). A 1998 government regulation requires hospitals to register the births of all children, but a general lack of resources made compliance nearly impossible. The Center for Peace and Human Rights at the Central University of Venezuela estimated that 20 percent of the poor had no identity documents, and the majority of these were children between the ages of 2 and 18.

According to a 2001 report by CECODAP, approximately 25 percent of children under the age of 15 had a nutritional deficit. Substandard conditions contributed to the increase in preventable diseases that were leading causes of infant mortality.

Reports of child abuse were rare due to a fear of entanglement with the authorities and societal ingrained attitudes regarding family privacy. The judicial system, although slow, ensured that in most situations children were removed from abusive households once a case had been reported. However, public facilities for such children were inadequate and had poorly trained staff.

According to CECODAP, approximately 1.6 million children worked in the country, mostly in the informal sector where they worked as street vendors or as beggars. An estimated 206,000 children were involved in prostitution, drug trafficking, and petty crime (see Section 6.d.).

According to UNICEF, there were 240,000 children on the streets; however, CECODAP reported that there were 500,000 street children. The authorities in Caracas and several other jurisdictions tried to cope with the

phenomenon of street children by continuing to impose curfews for unsupervised minors. Children's rights advocates claimed that curfews permitted the police to act arbitrarily and detain persons who had committed no crime. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in juvenile detention centers (see Section 1.c.).

Children's rights advocates continued to criticize the Government's lack of success in reuniting children and parents who were separated in the flooding in Vargas state in 1999. At year's end, 119 children remained missing. With the 2002 closing of the police office responsible for investigating the missing children, the Displaced Persons Unit of CICPC began handling the cases. The Ombudsman's office continued to investigate whether some of these children may have been trafficked (see Section 6.f.).

#### Persons with Disabilities

Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent, even in government buildings. According to local advocates, persons with disabilities were discriminated against in many sectors, including education, health care, and employment. A comprehensive 1993 law to protect the rights of persons with disabilities requires that all newly constructed or renovated public parks and buildings provide access. The law also prohibits discrimination in employment practices and in the provision of public services. However, the Government had not made a significant effort to implement the law, inform the public of it, or try to change societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

#### Indigenous People

Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffered from inattention to and violation of their rights. There were approximately 316,000 indigenous persons in 27 ethnic groups. Many of the indigenous were isolated from modern civilization and lacked access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plagued their communities.

The Constitution creates three seats in the National Assembly for indigenous deputies and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions affecting their lands, cultures, and traditions, or the allocation of natural resources. Few indigenous persons held title to their land, but many did not want to because most indigenous groups rejected the concept of individual property. Instead, they called on the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

On May 23, the Yaruro indigenous group of Apure State complained to the human rights group PROVEA that landholders and ranchers allegedly invaded Yaruro lands with negative results for the area's natural resources on which the indigenous community depended. Equally worrisome to the Yaruro was the discovery of petroleum within their territory. The Yaruro demanded compliance with Articles 120 and 129 of the Constitution requiring that any exploitation of natural resources within an indigenous group's territory only be undertaken after consultation with the effected group.

In July 2001, three members of the Pume indigenous people in Apure State were killed during an apparent effort to take control of the land they occupied. Two adults and one child were attacked by nonindigenous persons armed with machetes and firearms. Another Pume member, Carmen Flores, witnessed the killings and escaped unnoticed. In August 2001, two persons were arrested in connection with the killings. In November 2001, a court found them innocent and they were released. In July 2002, the Supreme Court reopened the case and ordered that the two men be detained. There were no further developments in this case during the year.

#### Section 6 Worker Rights

##### a. The Right of Association

Both the Constitution and the 1990 Labor Code recognize and encourage the right of workers to organize; however, the Government continued to violate the right of association. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form freely unions that they believe can help

them defend their rights and interests, as well as the right to join--or refrain from joining--these organizations. The Labor Code extends the right to form and join unions of their choosing to all private and public sector employees, except members of the armed forces.

The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they exercise their leadership functions. However, Articles 23 and 95 of the Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the CNE the authority to administer the internal elections of labor confederations. This article, which contravenes ILO Conventions 87 and 98, has been the subject of a long-running dispute between the Government and the ILO. However, during the year, the ILO took note of the will expressed by the Government and the National Assembly to adjust the legislation to the requirements of Convention 87, and requested the Government to furnish a detailed report, including the texts of any new draft elaborated, so that the ILO Committee of Experts could examine the situation once again at its next meeting.

The Inter-American Regional Organization of Workers and International Confederation of Free Trade Unions concluded that the Government seriously violated the right of association. The ILO repeatedly expressed concerns that the 1990 Labor Code violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 employers). The ILO noted that the long and detailed list of duties assigned to workers' and employers' organizations and the requirement that foreign workers must be resident in the country for more than 10 years in order to hold trade union offices also violates freedom of association. It also "deplored allegations of acts of violence committed with government backing [that] had been presented to the ILO mission by workers' and employers' organizations."

According to 2002 figures, approximately 10 to 12 percent of the 10-million-member national labor force was unionized. The CTV, three small union confederations, and a number of independent unions operated freely. The CTV represents most of the unionized workers and was especially strong in the public sector; its membership was approximately 900,000 workers. The CTV's top leadership included members of several political parties, but the majority was affiliated with either Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally influence each other. The Bolivarian Workers Force (FBT) organized unions within the CTV and participated in the CTV internal elections held in October 2002. During the year, the head of the Caracas metro union established the pro-government National Workers Union (UNT) as a counterweight to the CTV; the UNT claimed to have 630 affiliate unions.

Despite ILO objections, the Government continued to insist on the CNE's oversight authority for labor leadership elections. However, in practice CNE authorities took a broad interpretation of the requirement, allowing the individual union and federation elections to proceed uninterrupted under the authority of the CTV, and generally limiting its activities to an advisory role.

In spite of the CNE's hands-off approach and a 2002 Supreme Court ruling on the matter, the Government did not accept the validity of CTV internal elections in which pro-government candidates were defeated. As a result, the Government invited the UNT to represent labor on the delegation to the annual ILO Conference in June, rather than recognize the CTV leadership as the leading labor representative for the country. On June 2, Manuel Cova, CTV Secretary General, filed a complaint with the Supreme Court against the government delegation and later formally challenged the delegation's credentials at the ILO Conference in Geneva.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Only a judge may dissolve a union, and only for reasons listed in the law.

The law also prohibits employers from interfering in the formation of unions or in their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the Constitution, union officials have special protection from dismissal. Under the Labor Code, if a judge determines that any worker was fired for union

activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to the worker's seniority.

There are no restrictions on affiliation with international labor organizations, and many union organizations were active internationally; however, a 2000 Supreme Court ruling regarding the legal rights of NGOs that receive funding from foreign sources has the potential to restrict the international affiliations of union organizers (see Section 2.b.).

#### b. The Right to Organize and Bargain Collectively

According to the Constitution, all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the Government is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly expressed concerns over this and in March 2000 requested that the Government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members." The Code contains a provision stating that wages may be raised by administrative decree, provided that the legislature approves the decree.

During the year, the conflict between the Government and the CTV intensified, beginning with the labor confederation's leadership of a national work stoppage from December 2002 to February 1. On February 20, a criminal court ordered CTV Secretary General Carlos Ortega's detention on charges of rebellion, sabotage, and treason. On March 27, Ortega arrived in Costa Rica after being granted asylum in the Costa Rican embassy in Caracas. According to the media, Ortega said several times that he will return to the country but had not done so at year's end.

On February 19, DISIP officers detained strike leader and Fedecamaras president Carlos Fernandez and held him incommunicado until around 10:00 a.m. February 20 when he was allowed to speak with his wife via telephone. The Government announced that Fernando was being held on charges including rebellion, treason, instigation to commit a crime(s), criminal association, and "devastation." An opposition attorney stated that no warrant or court order was displayed at the time of Fernandez's capture. Human Rights Ombudsman German Mundarain acknowledged that Fernandez's detention was not "entirely transparent" because judicial officials were prohibited from seeing Fernandez immediately following his detention. Later in the year, Ortega and Fernandez submitted a complaint against President Chavez to the IACHR, alleging that Chavez breached internationally recognized human rights. On March 20, a court of appeals authorized the release from house arrest of Fernandez citing insufficient evidence. However, the judge stated that Fernandez could be re-arrested if the Public Ministry presented sufficient evidence at a later date. Fernandez had left the country at year's end.

The Constitution and the Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law. However, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

During and after the national work stoppage, PDVSA fired 19,000 mostly white-collar petroleum sector workers, saying they had abandoned their jobs for more than 3 days and were therefore terminated under the Labor Code. The Government denied the former workers continued access to company housing, schools, and medical benefits. Claiming their termination was illegal, fired employees filed suit for either reinstatement or compensation. The Government filed criminal charges against seven former oil company executives for alleged incitement to rebellion and sabotage of the oil industry. On June 10, the Supreme Court ruled that the Government's case had procedural errors and would have to be refiled.

During the year, several brief strikes occurred among government employees such as doctors and health workers in public hospitals and clinics, teachers, and transportation workers.

Labor law and practice are the same in the sole export processing zone of Punto Fijo, Falcon State, as in the rest of the country.

#### c. Prohibition of Forced or Bonded Labor

The 1990 Labor Code states that no one may "obligate others to work against their will," and such practices generally were not known to occur; however, there were reports of trafficking in children for employment purposes (see Sections 6.d. and 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector. In 2002, according to UNICEF, approximately 2.5 percent of children were in the labor market, and they worked in agriculture, as artisans, in offices, and in the services sector.

The Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelting factories; in occupations that risk life or health, or could damage intellectual or moral development; or in public spectacles. The Constitution prohibits adolescents from working in jobs that will affect their development (see Section 5). The Criminal Code prohibits inducing the prostitution and corruption of minors. Persons convicted of these crimes may be sentenced to imprisonment from 3 to 18 months, and up to 4 years if the minor is younger than 12 years old.

Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Children who worked in the informal sector, mostly as street vendors, generally worked more hours than the total permitted under the law. According to a Foundation for Social Action (FUNDAS) study, 63 percent of child street vendors work 7 days a week and 69 percent began working between the ages of 2 and 3. The Government's Central Office of Statistics and Information reported that 12 percent of the country's children between the ages of 10 and 17 were working, had worked at some time, or were seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. According to another report, 1.1 million children worked in the informal sector, 300,000 in the formal sector, and 206,000 in jobs related to prostitution, drugs, and theft.

#### e. Acceptable Conditions of Work

The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. On April 30, President Chavez announced a plan to increase the minimum wage by 30 percent. The plan was designed to raise the monthly minimum wage in two increments during the year. In July, the Government raised the minimum wage for public and private employees by 10 percent. Following the increase, the monthly minimum wage was \$125 (200,000 bolivars) in the private sector for urban workers, \$120 (192,000 bolivars) for employees of small and medium-sized companies, and approximately the same for rural workers. The President decreed a 20 percent increase to take effect October 1. The increases applied only to those already earning the minimum wage—approximately 15 percent of the labor force. Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits added to these minimum figures generally increased wages by about one-third. However, even with these benefits, the minimum wage was not sufficient to provide a decent standard of living for a worker and family. Unions noted that a worker's income was often less than the cost of basic monthly food for a family of five, estimated by the Government's Central Office of Statistics and Information to be \$158 (253,000 bolivars). The figure did not include other necessities such as medical care, transportation, clothing, and housing. The Ministry of Labor enforced minimum wage rates effectively in the formal sector of the economy, but approximately 55 percent of the population worked in the informal sector where labor laws and protections generally were not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional overtime, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforced these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which was not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice Ministry of Labor inspectors seldom closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

#### f. Trafficking in Persons

The Constitution prohibits trafficking in persons, although there is no implementing law specifically for prosecution of all forms of trafficking in persons; however, there were reports that the country was a source, destination and transit country for trafficked men, women, and children during the year.

Trafficking may be prosecuted under laws against forced disappearance and kidnapping (punishable by 2 to 6 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a fine of 1 to 10 months salary for trafficking in children). The Government did not prosecute any individuals for trafficking in persons during the year, and no figures were available from either government or NGO sources, making it difficult to gauge the extent of the problem. The authorities showed little awareness of trafficking in persons as a human rights problem. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates can be obtained created favorable conditions for trafficking. In June, the Director General of the passport agency and the General Manager of Simon Bolivar International Airport were replaced due to their alleged involvement in trafficking of Chinese nationals.

PROVEA received complaints that women were trafficked to Europe for purposes of prostitution. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country en route to Mexico and reportedly were forced to work off the cost of their transportation in conditions of servitude. The Ombudsman's office continued to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked. At year's end, 119 children remained missing. In 2002, there were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids; there were no further reports of this during the year. It also was believed widely that young women were lured from rural areas to urban centers by misleading newspaper advertisements promising domestic or other employment and educational opportunities; they then became victims of sexual exploitation. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were behind some of these trafficking activities.

Government efforts to prevent trafficking are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking had recourse to the Government's national system of women's shelters (see Section 5). NGOs such as CECODAP and the Coalition Against Trafficking in Women also were involved in activities to combat trafficking.